

**REMARKS**

The application has been reviewed in light of the Office Action mailed February 12, 2004. Claims 1, 2, 4, 6-9, 12-16, and 18-21 were pending at the time of the office action. Claims 1, 2, 4, 6-9, 12-16, and 18-21 were rejected. Claims 3, 5, 10, 11 and 17 were previously cancelled by Applicants without prejudice or disclaimer. Applicants have amended Claims 1, 8, 15-16, and 18-21. Applicants respectfully request reconsideration and favorable action in this case.

**Comments related to the the Drawings:**

The drawing were objected to failing to show every feature of the invention specified in the claims. Specifically, Examiner has indicated that the figures do not show a display and/or user interface with real-time operating status information. Applicants submit that the user interface is depicted at least in Figure 4, reference number 403 sufficient to overcome this objection. Accordingly, Applicants do not believe that any correction to the drawing is required at this time.

**Comments Related to the Abstract**

Examiner stated that the abstract fails to disclose the limitations of newly amended Claims 1, 8 and 15. Applicants request that the request to amendmen the abstract be held in abeyance until the Claims of this application are allowed.

**Rejections under 35 U.S.C. §112**

Claims 1, 2, 4, 6-9, 12-16, and 18-21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants submit that Amendments to Claims 1, 8, and 15 overcome the objections Claims 1, 8, and 15 listed in actions 6-10.

Examiner has rejected Claims 16 and 19 as being indefinite. Examiner has argued that Claims 16 and 19 are unclear because Claims 16 and 19 are directed toward determining if an error has occurred and Claim 15 is directed toward re-allocating resources. Applicants respectfully submit the Claims 15-21 are directed toward a program product for monitoring

resources within a build to order manufacturing facility. This program product includes (among other functions) both 1) determining the operating status of equipment and 2) reallocating resources if a piece of equipment is determined to be inoperable. Clearly, the determination that a piece of equipment is inoperable will precede the re-allocation of resources in response to such a determination.

Examiner has also indicated that use of the term "relative" has rendered claims 8 and 15 indefinite. Applicants note that there is no generalized prohibition to use of the term "relative" (in fact a brief search indicates that more than 450,000 issued patents include claims that utilize the term "relative"). In Claims 8 and 15, the term "relative" simply relates the pieces of equipment at issue with a ship criteria. In other words, the "determining operating status" step will determine the operating status for pieces of equipment that are planned to be used for a particular ship criteria, and not simply perform a blanket investigation of every piece of equipment possible (unless the particular ship criteria requires every piece of equipment).

Applicants request that Examiner withdraw the rejection under 35 U.S.C. 112.

### **Rejections under 35 U.S.C. §103**

Claims 1, 2, 4, 6-9, 14-16, 18, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,336,053 issued to Robert A. Beatty ("Beatty") in view of U.S. Patent 5,216,593 issued to Brenda L. Dietrich et al. ("Dietrich"). Applicants respectfully traverse and submit that the combination of Beatty and Dietrich do not disclose, teach, or suggest every limitation of the rejected claims.

Independent Claims 1, 8, and 15 each recite a simulator or simulation step to determine the "re-allocation" of resources when a piece of equipment is determined to be inoperative. Examiner has stated that Beatty does not disclose such a simulator or simulation step.

Applicants submit that Dietrich also does not teach a simulator or simulation step for the reallocation of resources. While Dietrich does teach the use of a "model generator" element, Dietrich's teachings are limited to determining which orders should be processed based upon the availability of resources for the order. Applicant's submit that Dietrich only teaches an initial allocation of resources and does not disclose, teach or suggest the re-

allocation of resources after a piece of equipment has become inoperable. Accordingly, Applicants submit that the combination of Beatty and Dietrich do not disclose, teach or suggest every limitation of, and therefore cannot render obvious, Independent Claims 1, 8, or 15, or Claims 2, 4, 6-7, 9, 14, 16, 18, and 21 which depend therefrom.

Claims 12, 13, 19 and 20 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Beatty as applied to Claims 1, 8 and 15 above, and further in view of U.S. Patent 5,586,021 issued to Hugh E. Fargher et al. ("Fargher"). Applicants respectfully traverse and submit that Claims 12, 14, 19, and 20 depend from Claims 8 and 15 which have now been placed in condition for allowance.

Applicants request that Examiner withdraw the rejection under 35 U.S.C. 103 to remaining Claims 1-21.

**Information Disclosure Statement**

Applicants enclose a new Information Disclosure Statement and PTO Form 1449, with a copy of the reference and a check in the amount of \$180.00, for the Examiner's review and consideration.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of the claims as amended.

Applicants believe no fee is due for this response, however, if any fees are due, the Commissioner is hereby authorized to charge any necessary fees to Deposit Account No. 02-0383 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



Brian E. Szymczak  
Reg. No. 47,120

Date: 5/12/04

Correspondence Address:

Customer No. **23640**

512.322.2548  
512.322.8340 (Fax)

Attachment:

1. Information Disclosure Statement and PTO Form 1449 (w/references), along with a check in the amount of \$180.00.